

4/11 6:15P
Chapter No. 926

11/SS02/R1001

JV / CC/TB

SENATE BILL NO. 3123

Originated in Senate

Jenna Hughes

Secretary

SENATE BILL NO. 3123

AN ACT TO AMEND CHAPTER 855, LOCAL AND PRIVATE LAWS OF 1978, AS LAST AMENDED BY CHAPTER 946, LOCAL AND PRIVATE LAWS OF 2004, TO GRANT THE CITY OF HATTIESBURG, FORREST COUNTY AND THE FORREST COUNTY INDUSTRIAL PARK COMMISSION ADDITIONAL POWERS RELATING TO THE FUNDING OF CERTAIN PROJECTS IN THE INDUSTRIAL PARK; AND FOR RELATED PURPOSES.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MISSISSIPPI:

SECTION 1. Chapter 855, Local and Private Laws of 1978, as amended by Chapter 886, Local and Private Laws of 1984, as amended by Chapter 886, Local and Private Laws of 1985, as amended by Chapter 912, Local and Private Laws of 1988, as amended by Chapter 884, Local and Private Laws of 1989, as amended by Chapter 976, Local and Private Laws of 1993, as amended by Chapter 956, Local and Private Laws of 1994, as amended by Chapter 959, Local and Private Laws of 1999, as amended by Chapter 946, Local and Private Laws of 2004, is amended as follows:

Section 1. The City of Hattiesburg and Forrest County, Mississippi, acting jointly or severally, each, in their discretion, may acquire by purchase, gift or otherwise any suitable land located within Forrest County, Mississippi, to be used, utilized and made available as a site and/or sites for industrial purposes, with the title thereto being taken in the name of the participating political subdivisions, whether one or more, hereinafter called "subdivisions," and wherever the plural is used, it is also intended for the singular, as the case may be. The City of Hattiesburg and Forrest County, Mississippi, acting jointly or severally, are further authorized to acquire industrial buildings, plant facilities and related site improvements, and to

make necessary improvements, repairs and additions thereto, and to retire any outstanding indebtedness now or hereafter owed or assumed by the Industrial Park Commission created pursuant to the provisions of this act. Any lands affected by this act and owned by the Industrial Park Commission, created pursuant to Section 11 of this act, may not be annexed by, or made a part of, any political subdivision not participating under this act unless the land is located in a political subdivision not participating in this act when such land is acquired.

Section 2. If any subdivisions shall determine to acquire and should acquire an industrial site and/or sites or any available industrial buildings or plant facilities, as authorized by this act, the subdivisions shall have power and authority to improve the real estate so acquired, to provide and operate all necessary utilities therefor, not otherwise available from a certified utility company, and to lay out and hard surface necessary roadways, driveways and access roads, and to do any and all such other things as may be necessary to make the properties so acquired suitable and desirable for industrial enterprises. The cost and expense of the acquisition and improvements to the properties shall be paid from funds made available under the authority of this act.

Section 3. The subdivisions, in their discretion, may lease, rent and sell all or any part of the properties acquired under the authority of this act to any person, firm, association or corporation for industrial purposes under the terms and conditions as the subdivisions may deem proper and any sale or sales of the real estate authorized under this act may be made at public or private sale.

Section 4. For the purpose of providing funds to defray the expense of acquiring the properties and the expense of improving the same, as provided by this act, the subdivisions are authorized to borrow an aggregate amount not in excess of Fifteen Million

Dollars (\$15,000,000.00) outstanding at any one time and to issue the negotiable bonds of the subdivisions as evidence of the indebtedness so incurred. Nothing in this act shall prevent either or both participating subdivisions from issuing the bonds, and subject to the provisions of Section 9 of this act, the bonds authorized may be issued on a countywide basis by the county only or, if issued by the City of Hattiesburg, as municipal enterprise, then the bonds shall be issued on a municipal basis only by the municipality.

Section 5. All bonds issued under the authority of Section 4 of this act shall bear interest at a rate or rates not exceeding the rate of interest authorized at the time of sale of any series of bonds to be issued hereunder by Section 75-17-101, shall be in the denomination or denominations, shall be payable, both principal and interest, at the place or places, all as the subdivisions shall determine. All bonds shall be sold in the manner provided by law at the time of the sale of the bonds subject to the restrictions, limitations, requirements or conditions applicable to the borrowing of the money and the issuance of the bonds which are provided by law and shall be sold for not less than par value and shall mature not more than twenty-five (25) years from date, with or without the right of redemption, with or without premium, all as shall be determined by the subdivisions. No less than one-fiftieth (1/50) of the total issue shall mature during each year during the first five (5) years of the life of the bonds, and not less than one-twenty-fifth (1/25) of the total issue shall mature each year during the succeeding ten-year period of the life of the bonds, and the remainder shall be divided into approximately equal annual payments, with payment to be made each year for the remaining life of the bonds. The bonds shall be executed on behalf of the subdivisions in the manner provided by law for general obligation bonds of the respective political subdivisions.

No bond shall bear more than one (1) rate of interest; each bond shall bear interest from its date to its stated maturity date at the interest rate specified in the bid; all bonds of the same maturity shall bear the same rate of interest from date to maturity; all interest accruing on the bonds so issued shall be payable semiannually or annually, except that the first interest payment may be for any period not exceeding one (1) year.

Each interest rate specified in any bid must be in multiples of one-eighth of one percent ($1/8$ of 1%) or in multiples of one-tenth of one percent ($1/10$ of 1%).

The bonds may be issued and sold in one or more series but the aggregate amount shall not exceed Fifteen Million Dollars (\$15,000,000.00) outstanding at any one time.

Section 6. Before issuing any bonds under the provisions of Sections 4 and 5 of this act, the subdivisions shall, by resolution spread upon their respective minutes, declare their intention to issue the bonds for the purposes authorized by this act, and shall state in said resolution the amount of bonds proposed to be issued, and shall likewise fix in the resolution the date upon which the subdivisions propose to direct the issuance of the bonds. Notice of such intention shall be published once a week for at least three (3) consecutive weeks in a newspaper published or having a general circulation in Forrest County, Mississippi, with the first publication of the notice to be made not less than twenty-one (21) days prior to the date fixed in the resolution declaring the intent to issue the bonds, and the last publication to be made not more than seven (7) days prior to the date. If, on or before the date specified in the resolution, ten percent (10%) of the qualified electors of the subdivision proposing to issue the bonds shall file a written protest against the issuance thereof, then an election upon the issuance of the bonds shall be called and held as provided in this act. If no protest shall be filed, then the subdivisions may issue the bonds

without an election on the question of the issuance of the bonds at any time within a period of two (2) years after the date specified in the resolution. If an election is required by the protest of the appropriate number of qualified electors of the subdivision, then an election shall be held by the subdivision under applicable laws. Nothing in this act shall prevent the subdivision from calling an election, whether required by ten percent (10%) of the qualified electors or not, in which event it shall not be necessary to publish the resolution of intent above described.

Section 7. At the election, all qualified electors of the subdivision may vote and the ballots used in the election shall have printed thereon a brief statement of the amount and purposes of the proposed bond issue and the words "FOR THE BOND ISSUE" and the words "AGAINST THE BOND ISSUE," and the voters shall vote by placing a cross (X) or check (✓) opposite their choice on the proposition.

Section 8. When the results of the election shall have been canvassed by the election commission of the subdivision, and certified to the subdivision, it shall be the duty of the governing officials of the subdivision to determine and adjudicate whether a majority of the qualified electors residing in the subdivision and voting in the election voted in favor of the bonds, failing of which the proposed bond issue shall be declared as disapproved. If the bond issue shall be approved, the subdivision may issue the bonds within two (2) years from the date of the election, or within two (2) years after final favorable determination of any litigation affecting the issuance of the bonds at the time or times and in the amount or amounts, not exceeding that specified in the notice of the election, as shall be deemed proper by the subdivision.

Section 9. The full faith, credit and resources of the subdivisions shall be irrevocably pledged for the repayment of

bonds and the interest thereon issued by the subdivisions. If the bonds authorized by Section 4 of this act are issued by only one (1) of the participating subdivisions, it shall be the duty of the subdivisions annually to levy and collect a special tax upon all of the taxable property within the subdivisions which shall be sufficient to provide for the payment of the principal and interest on the respective bonds issued, according to the terms of the bonds. If the bonds authorized by Section 4 of this act are issued by both subdivisions, it shall be the duty of Forrest County, Mississippi, annually to levy and collect a special tax upon all the taxable property within the county, exclusive of the taxable property located within the municipal limits of the City of Hattiesburg, Mississippi, which shall be sufficient to provide for the payment of the principal and interest on the bonds issued by Forrest County, Mississippi, according to the terms thereof; and it shall be the duty of the City of Hattiesburg, Mississippi, annually to levy and collect a special tax upon all of the taxable property within the city which shall be sufficient to provide for the payment of the principal and interest on the bonds issued by the City of Hattiesburg, Mississippi, according to the terms thereof; however, any income derived by the subdivisions from the sale or lease of the property authorized to be acquired under this act shall be used first for the payment of any sums authorized under Section 14 hereof and, secondly, for the retirement of the bonds authorized to be sold under the foregoing sections of this act. Further, if the bonds have been heretofore issued, or shall be hereafter issued, by only one (1) of the participating subdivisions under the provisions of this act, the other participating subdivision not issuing the bonds may enter into an agreement by which it may contribute from any funds available, including, but not limited to, a levy of a special tax upon all of the taxable property within said subdivision, sales tax revenues and funds other than those created by an ad valorem tax levy, to

the bond and interest sinking fund created for the retirement of such bonds. In addition to the authority stated herein, if bonds have already been issued, or shall be issued hereafter, by the City of Hattiesburg, in order to secure payment of the bonds, Forrest County is authorized to enter into an agreement by which it may contribute to the repayment of the bonds and the interest thereon through the levy of a special tax imposed only upon all of the taxable property of the county lying outside the municipal limits of the City of Hattiesburg.

Section 10. The bonds issued under this act shall be exempt from taxation as provided in Section 57-1-39, Mississippi Code of 1972, and their inclusion in any statutory debt limitation shall be governed by the laws applicable to the issuance of bonds as authorized and provided by Section 19-9-5, Mississippi Code of 1972, as it applies to the county, and Section 21-33-303, Mississippi Code of 1972, as it applies to the City of Hattiesburg.

Section 11. In the event this act is utilized, Forrest County and the City of Hattiesburg, Mississippi, or both, shall establish the Forrest County Industrial Park Commission. In the event the commission is established, it shall receive and hold title to the property affected by this act subject to the powers enumerated in Section 14 of this act. The establishment of the commission shall be by order of the board of supervisors and the mayor and city council appearing on their official minutes and the order of each shall be recorded on the minutes of the other. However, no order shall be required from or recorded as to either of said political subdivisions not participating in the establishment. The Industrial Park Commission of the City of Hattiesburg heretofore created under Chapter 855, Local and Private Laws of 1978, as amended by Chapter 886, Local and Private Laws of 1984, as amended by Chapter 886, Local and Private Laws of 1985, shall become and be merged into the Forrest County

Industrial Park Commission created pursuant to this act, and the Forrest County Industrial Park Commission shall become the successor in title to all of the assets, properties and liabilities of the Industrial Park Commission of the City of Hattiesburg.

The Forrest County Industrial Park Commission shall consist of ten (10) members, five (5) of which shall be appointed by the board of supervisors and five (5) of which shall be appointed by the mayor and city council. The first members of the Forrest County Industrial Park Commission shall be appointed for terms of one (1), two (2), three (3), four (4) and five (5) years. After the expiration of the terms of the first commissioners, the terms of office of each commissioner shall be for a period of five (5) years, and the subdivision that appointed the commissioner whose term expires shall appoint his successor. Any vacancy of membership on the Forrest County Industrial Park Commission that may occur shall be filled by appointment of the named subdivision appointing the member whose position has been vacated for the unexpired term.

Section 12. The commission shall organize by electing one (1) of its members to act as chairman and one (1) of its members to act as secretary. The secretary shall act as treasurer and shall enter into a surety bond in an amount fixed by the Forrest County Industrial Park Commission. The secretary shall be custodian of all funds made available to the commission, and he and his bond shall be liable for illegal expenditures or wrongful conversion of these funds. The commission shall annually in October require a financial audit to be made, a copy of which shall be placed upon the minutes of the commission.

Section 13. Either participating subdivision, in its discretion, may appropriate such sums as it deems necessary for the support and maintenance of the Forrest County Industrial Park Commission.

Section 14. The Forrest County Industrial Park Commission shall be a public agency and shall have all of the powers necessary or convenient to carry out the purposes for which it is created (excluding the power to levy and collect taxes or special assessments) including, but not limited to, the power:

(a) To sue and be sued, to have a seal and to have perpetual succession;

(b) To execute such contracts and other instruments and take such other action as may be necessary or convenient to carry out the purposes of this act;

(c) To plan, establish, develop, construct, enlarge, improve, maintain, equip, operate, regulate and to protect the industrial park or parks and any building or structures or other property owned, leased or otherwise acquired by the commission or owned by others but located within industrial parks created under this act, including the acquisition, construction, installation, renovation, equipping, operating and maintaining of industrial facilities for the procurement of additional industrial enterprises in said county, and further including the acquisition, construction, installation, renovation, equipping, operating and maintaining of property for public facilities or offices or for all types of research or commercial uses, or both. For such purposes the commission may by purchase, gift, devise, lease or otherwise acquire property, real or personal, or any interest therein for the establishment of an industrial facility or facilities, public facilities or offices for all types of research or commercial uses;

(d) To subdivide, improve, sell, lease or convey any real or personal property so acquired for an amount or amounts as may be determined by the commission to be proper; however, no sale, lease or conveyance shall be finally concluded unless approved by the participating subdivisions;

(e) To utilize funds provided by the subdivisions for project support of new industrial enterprises or expansions of existing enterprises located at industrial parks created under this act as directed by the subdivisions, with authorized project support payments to include project assistance such as infrastructure improvements necessary for industrial facilities, improvements to industrial facilities owned by the commission or others, reduction of real estate occupancy costs for new or expanding industrial enterprises located in facilities owned by the commission or others, provision of workforce training, and reimbursement of costs associated with the foregoing;

(f) In determining the adequacy of the amount or amounts to be paid for the sale or lease of any real or personal property, the commission may take into consideration the economic impact, the increased tax revenues and other benefits to be received by either or both of the participating subdivisions, or by the general public; and

(g) To specifically contract with the Area Development Partnership, the Forrest County Development Foundation or any similar civic or nonprofit organization to furnish services and staff in the area of administration, management, marketing, research, promotion and other similar services.

Section 15. The commissioners shall receive no compensation for their services, but shall be entitled to necessary expenses incurred in the discharge of their duties, as jointly approved and equally paid by the participating subdivisions.

Section 16. The total expenditures to be made by the commission shall be as determined by a budget approved by the participating subdivisions aforesaid on or before the preceding October 1, or as otherwise specifically authorized by the subdivisions.

Section 17. The acquisition of any land or interest therein pursuant to this act and the exercise of any other powers granted in this act are declared to be public and governmental functions.

Any property acquired and held by the commission for industrial purposes pursuant to the provisions of this act and any income derived by the commission from the ownership or control thereof shall be exempt from taxation to the same extent as other property belonging to political subdivisions of this state.

Section 18. For the purpose of aiding and cooperating in the planning, undertaking, construction or operation of the industrial park, parks or other property owned by the commission pursuant to the provisions of this act, the county and city may each, upon such terms, with or without consideration as each may, in its discretion, determine:

(a) Cause water, sewer or drainage facilities, or any other facilities which it is empowered to provide, to be furnished adjacent to or in connection with such industrial park, parks or other property owned by the commission;

(b) Furnish, dedicate, close, pave, install, grade, regrade, plan or replan streets, roads, roadways and walks from established streets or roads to such industrial park, parks or other property owned by the commission, and to maintain the same;

(c) To assist the Forrest County Industrial Park Commission to perform any act or function which the commission is authorized to perform;

(d) Levy and collect a tax on all taxable property or grant a fee-in-lieu of taxes on qualified property within the jurisdiction of the political subdivisions and appropriate the proceeds thereof for industrial park purposes and in the execution of all other authorities specified in this section; and

(e) Appropriate up to fifty percent (50%) of the subdivisions' share of fee-in-lieu revenue from a fee-in-lieu granted to a new industrial enterprise or for expansions of

existing enterprises located at industrial parks created under this act and to utilize that revenue for project support thereof in such amounts and for such purposes as the subdivisions may determine to be proper, taking into consideration the job creation, other economic impact, and other benefits to be received by either or both of the participating subdivisions, or by the general public, with project support payments to include project assistance such as infrastructure improvements necessary for industrial facilities, improvements to industrial facilities owned by the commission or others, reduction of real estate occupancy costs for new or expanding industrial enterprises located in facilities owned by the commission or others, provision of workforce training, and reimbursement of costs associated with the foregoing.

Section 19. The authorities and duties contained in Sections 19-9-29, 19-3-47, 57-1-41 and 57-1-43, Mississippi Code of 1972, shall be applicable to any bonds issued under this act.

Section 20. Lands heretofore or hereafter acquired under this act shall remain exempt from all ad valorem taxation until and unless sold to a nongovernmental entity.

Section 21. Chapter 170, Extraordinary Session of 1969, is hereby repealed.

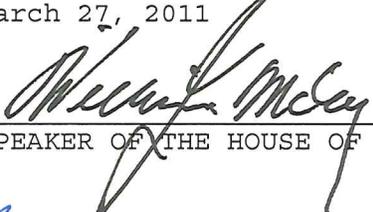
SECTION 2. This act shall take effect and be in force from and after its passage.

PASSED BY THE SENATE
March 23, 2011



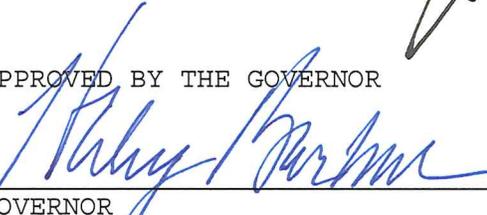
PRESIDENT OF THE SENATE

PASSED BY THE HOUSE OF REPRESENTATIVES
March 27, 2011



SPEAKER OF THE HOUSE OF REPRESENTATIVES

APPROVED BY THE GOVERNOR



GOVERNOR

4/6/11 6:15